

NOTICE OF INTENT

Department of Environmental Quality
Office of Water Resources
Water Pollution Control Division and Water Quality Management
Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division and Water Quality Management Division Regulations, LAC 33:IX.1303, 1307, 1309, 1311, and 1315 (Log # WP026).

The proposed rule will amend the Louisiana Water Pollution Control Fee System regulations to provide additional revenues that are needed to meet state and federal mandates to develop, implement, and assess Total Maximum Daily Loads (TMDL). A TMDL is a tool for determining allowable pollutant loadings for a waterbody and providing for the establishment of water quality-based controls necessary for that waterbody to meet water quality standards. Louisiana Water Pollution Control Fee System fees are applicable to all water discharge permits and are assessed for the purpose of funding the operation and activities of the Office of Water Resources in accordance with R.S. 30:2001 et seq. Annual fee amounts are calculated by multiplying the rating points, computed using the Annual Fee Rating Worksheet, times a rate factor, currently \$97.50 for municipal facilities and \$179.16 for all other facilities. This proposal will amend the Louisiana Water Pollution Control Fee System regulations to incorporate an overall 15 percent increase of the current fee to be implemented in two 7.5 percent increases in July 1998 and July 1999. The rule will amend the fee currently assessed to facilities permitted under the Louisiana Water Pollution Control Fee System as follows: 1) the municipal rate factor (from \$97.50 to \$104.81, then to \$112.12); 2) the rate factor for all other facilities (from \$179.16 to \$192.60, then to \$206.03); 3) the maximum annual fee (from \$94,500.00 to \$101,587.50, then to \$108,675.00); and 4) the minimum annual fee (from \$227.50 to \$244.56, then to \$261.63).

The basis and rationale for this rule is to implement R.S. 30:2089, which states that in order to provide for the development of TMDLs and as otherwise may be necessary to protect the waters of the State of Louisiana, it is necessary for the department to increase the fees assessed by the Office of Water Resources.

The Department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of this issue of the *Louisiana Register*.

A public hearing will be held on November 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by the WP026. Such comments must be received no later than Friday, December 1, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP026. FAX

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1303. Authority

These regulations provide fees as required by R.S. 30:2014(B) and 2089.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR**.

§1307. Definitions

All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in substantive regulations promulgated by the secretary of the Department of Environmental Quality, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply:

* * *

[See Prior Text]

Facility—for the purposes of the Louisiana Water Pollution Control Fee System, a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where an activity is conducted ~~which that~~ discharges or may result in the discharge of pollutants into waters of the state.

* * *

[See Prior Text]

Major Facility—for the purposes of the Louisiana Water Pollution Control Fee System, any facility classified as such by the administrative authority.

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[See Prior Text]

Permit or License—for the purposes of the Louisiana Water Pollution Control Fee System, written authorization issued by the administrative authority to discharge, emit, or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

~~Secretary—the secretary of the Department of Environmental Quality.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR**.

§1309. Fee System

A. Applicability. Fees established by these regulations shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq., including those with no discharge and/or closed system permits ~~, or any federal NPDES permit where permitting authority has been delegated to the department~~.

* * *

[See Prior Text in B-B.2]

3. The rate factor shall be ~~\$97.50 per rating point for municipal facilities and \$179.16 per rating point for all other facilities~~ applied per rating point as follows:

- a. for municipal facilities:
 - i. \$97.50 per rating point through June 30, 1998;
 - ii. \$104.81 per rating point from July 1, 1998, through
June 30, 1999; and
 - iii. \$112.12 per rating point as of July 1, 1999; and
- b. for all other facilities:
 - i. \$179.16 per rating point through June 30, 1998;
 - ii. \$192.60 per rating point from July 1, 1998, through
June 30, 1999; and
 - iii. \$206.30 per rating point as of July 1, 1999 .

* * *

[See Prior Text in B.4-C.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than ~~\$227.50~~ the minimum annual fee, as defined in Subsection E.1 of this Section .

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[See Prior Text in D-D.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than ~~\$227.50~~ the minimum annual fee, as defined in Subsection E.1 of this Section, for permit actions requiring implementation of the public notice procedure.

4. For all other permit actions, ~~¶this fee shall be 10 percent of the calculated annual fee but not less than \$227.50 for all other permit actions~~ the minimum annual fee, as defined in Subsection E.1 of this Section .

E. Minimum and Maximum Annual Fee

- 1. The minimum annual fee shall be :
 - a. \$227.50 through June 30, 1998;
 - b. \$244.56 from July 1, 1998, through June 30, 1999; and

- c. \$261.63 as of July 1, 1999 .
2. The maximum annual fee shall be :
 a. \$94,500 through June 30, 1998;
 b. \$101,587.50 from July 1, 1998, through June 30, 1999; and
 c. \$108,675.00 as of July 1, 1999 .

* * *

[See Prior Text in F-M]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR**.

§1311. Instructions For Completing Municipal Facility Annual Fee Rating Worksheet

* * *

[See Prior Text in A-A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank. Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309. KL.2.

* * *

[See Prior Text in A.4-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR**.

§1315. Instructions For Completing Industrial Facility Annual Fee Rating Worksheet

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[See Prior Text in A-A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank. Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309. KL.2.

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[See Prior Text in A.4-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR**.